

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JENIERE K. EVANS,

Plaintiff,

-against-

THE CITY OF NEW YORK and
BRC LEX SAFE HAVEN,

Defendant.

1:21-cv-08659-MKV

ORDER

MARY KAY VYSKOCIL, United States District Judge:

Plaintiff Jeniere Evans, proceeding *pro se*, initiated this action by filing a Complaint on October 21, 2021. [ECF No. 2]. Plaintiff names the City of New York and BRC Lex Safe Haven as Defendants in the caption of the Complaint. [ECF No. 2]. However, the Complaint is not clear as to whether it also asserts claims against Detective Leggio. On page four of the Complaint, Detective Leggio's name appears in the list of Defendants, but is crossed out. [ECF No. 2, at 4]. However, on page seven of the Complaint, Detective Leggio is named as a Defendant. [ECF No. 2, at 7].

Federal Rule of Civil Procedure 10(a) provides that “[e]very pleading must have a caption . . . [and] [t]he title of the complaint must name all the parties.” However, the Second Circuit instructs that courts should “excuse technical pleading irregularities as long as they neither undermine the purpose of notice pleading nor prejudice the adverse party.” *Phillips v. Girdich*, 408 F.3d 124, 128 (2d Cir. 2005). Moreover, *pro se* pleadings warrant especially liberal construction and should not be dismissed unless “it is clear that the plaintiff would not be entitled to relief under any set of facts that could be proved consistent with the allegations.” *Boddie v. Schnieder*, 105 F.3d 857, 860 (2d Cir. 1997).


As such, IT IS HEREBY ORDERED that Plaintiff's Complaint with respect to any claims made against Detective Leggio is dismissed without prejudice. If Plaintiff elects to amend his complaint, the amended complaint is due on or before January 24, 2022. Should Plaintiff seek to assert claims against Detective Leggio, he should identify in the caption the people he intends to sue. *See Shariff v. United States*, 689 F. App'x 18, 20 (2d Cir. 2017).

IT IS FURTHER ORDERED that Defendant's request to extend its time to answer or otherwise respond to the Complaint is GRANTED. Defendant shall answer or otherwise respond to the Complaint by February 28, 2022.

The Clerk of Court is respectfully requested to mail a copy of this Order to the pro se Plaintiff at the address of record.

SO ORDERED.

Date: December 27, 2021
New York, NY



MARY KAY VYSKOCIL
United States District Judge